

## § 418.3350

## 20 CFR Ch. III (4–1–11 Edition)

(f) *Social Security cost-of-living adjustment.* We will not count as income the amount of the cost-of-living adjustment for social security benefits for any month through the month following the month in which the annual revision of the Federal poverty guidelines is published.

### § 418.3350 What types of unearned income do we not count?

(a) For claims filed on or after January 1, 2010 and redeterminations that are effective on or after January 1, 2010, we do not count as income in-kind support and maintenance.

(b) While we must know the source and amount of all of your unearned income, we do not count all of it to determine your eligibility for the subsidy. We apply to your unearned income the exclusions in § 418.3350(c) in the order listed. However, we do not reduce your unearned income below zero, and we do not apply any unused unearned income exclusion to earned income except for the \$20 per month exclusion described in § 416.1124(c)(12) of this chapter. For purposes of determining eligibility for a subsidy and whether you should receive a full or partial subsidy, we treat the \$20 per month exclusion as a \$240 per year exclusion.

(c) We do not count as income the unearned income described in § 416.1124(b) and (c) of this chapter, except for paragraph (c)(13).

(d) We do not count as income any dividends or interest earned on resources you or your spouse owns.

[75 FR 81846, Dec. 29, 2010]

## RESOURCES

### § 418.3401 What are resources?

For purposes of this subpart, resources are cash or other assets that an individual owns and could convert to cash to be used for his or her support and maintenance.

### § 418.3405 What types of resources do we count?

(a) We count liquid resources. Liquid resources are cash, financial accounts, and other financial instruments that can be converted to cash within 20 workdays, excluding certain non-work-

days as explained in § 416.120(d) of this chapter. Examples of resources that are ordinarily liquid include: stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies (for claims filed before January 1, 2010, and redeterminations that are effective before January 1, 2010), financial institution accounts (including savings, checking, and time deposits, also known as certificates of deposit), retirement accounts (such as individual retirement accounts or 401(k) accounts), revocable trusts, funds in an irrevocable trust if the trust beneficiary can direct the use of the funds, and similar items. We will presume that these types of resources can be converted to cash within 20 workdays and are countable as resources for subsidy determinations. However, if you establish that a particular resource cannot be converted to cash within 20 workdays, we will not count it as a resource.

(b) We count the equity value of real property as a resource regardless of whether it can be sold within 20 workdays. However, we do not count the home that is your principal place of residence and the land on which it is situated as a resource as defined in § 418.3425(a).

[70 FR 77675, Dec. 30, 2005, as amended at 75 FR 81846, Dec. 29, 2010]

### § 418.3410 Whose resources do we count?

(a) We count your resources. We count the resources of both you and your spouse regardless of whether one or both of you apply or are eligible for the subsidy if you are married and live with your spouse as of the month for which we determine your eligibility based on an application for a subsidy, as of the month for which we redetermine your eligibility for a subsidy as described in § 418.3125, or as of the month for which we determine your eligibility due to a change you reported as described in § 418.3120.

(b) We will determine your eligibility based on your resources alone if you are not married or if you are married but you are separated from your spouse at the time you apply for a subsidy or

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at the time we redetermine your eligibility for a subsidy as described in §418.3125.

(c) If your subsidy is based on the resources of you and your spouse and we redetermine your subsidy as described in §418.3120(b)(1), we will stop counting the resources of your spouse in the month following the month that we receive a report that your marriage ended due to death, divorce, or annulment; or a report that you and your spouse stopped living together.

(d) If your subsidy is based on the resources of you and your spouse, we will continue counting the resources of both you and your spouse if one of you is temporarily away from home as described in §404.347 of this chapter.

### §418.3415 How do we determine countable resources?

(a) *General rule.* Your countable resources are determined as of the first moment of the month for which we determine your eligibility based on your application for a subsidy or for which we redetermine your eligibility for a subsidy. A resource determination is based on what assets you (and your living-with spouse, if any) have, what their values are, and whether they are excluded as of the first moment of the month. We will use this amount as your countable resources at the point when we determine your eligibility for the subsidy unless you report to us that the value of your resources has changed as described in §418.3120.

(b) *Equity value.* Resources, other than cash, are evaluated according to your (and your spouse's, if any) equity in the resources. For purposes of this subpart, the equity value of an item is defined as the price for which that item, minus any encumbrances, can reasonably be expected to sell on the open market in the particular geographic area involved.

(c) *Relationship of income to resources.* Cash you receive during a month is evaluated under the rules for counting income during the month of receipt. If you retain the cash until the first moment of the following month, the cash is countable as a resource unless it is otherwise excludable.

### §418.3420 How are funds held in financial institution accounts counted?

(a) *Owner of the account.* Funds held in a financial institution account (including savings, checking, and time deposits also known as certificates of deposit) are considered your resources if you own the account and can use the funds for your support and maintenance. We determine whether you own the account and can use the funds by looking at how the account is held.

(b) *Individually-held account.* If you are designated as the sole owner by the account title and you can withdraw and use funds from that account for your support and maintenance, all of that account's funds are your resource regardless of the source. For as long as these conditions are met, we presume that you own 100 percent of the funds in the account. This presumption is not rebuttable.

(c) *Jointly-held account.* (1) If you are the only subsidy claimant or subsidy recipient who is an account holder on a jointly held account, we presume that all of the funds in the account belong to you. If more than one subsidy claimant or subsidy recipient are account holders, we presume that the funds in the account belong to those individuals in equal shares.

(2) If you disagree with the ownership presumption as described in paragraph (c)(1) of this section, you may rebut the presumption. Rebuttal is a procedure which permits you to furnish evidence and establish that some or all of the funds in a jointly-held account do not belong to you.

### §418.3425 What resources do we exclude from counting?

In determining your resources (and the resources of your spouse, if any) the following items shall be excluded:

(a) *Your home.* For purposes of this exclusion, a home is any property in which you (and your spouse, if any) have an ownership interest and which serves as your principal place of residence. This property includes the shelter in which an individual resides, the land on which the shelter is located, and outbuildings;